IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.201 OF 2006

Kishor Manohar Gupte .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.S.M.Sabrad for applicant
Mr.A.K.Rastogi for respondent No.2
Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 14th November 2006.

P.C.

. The applicant seeks extension of three months for making payment of Rs.1 lakh. Application was presented on 22nd September 2006. This Court passed an order on 16th October 2006 and it was noted by this Court that an undertaking was given that the applicant would pay a sum of Rs.1 lakh by 30th September 2006. If the cheque of this sum is dishonoured, he will

undergo imprisonment for the remaining period. The cheque upon presentation has not been cleared. Therefore, the undertaking would operate. In such circumstances, applicant was directed to forthwith surrender.

2. When the application was placed before me on 6th November 2006 Mr.Sabrad, after taking instructions, sought time to surrender till 8th November 2006.

3. However, during this period, parties once again met each other and on 9th November 2006, I have recorded further statement of Mr.Sabrad that the applicant would pay Rs.25,000/- on or before 13th November 2006.

4. Applicant is present in court today. Time to surrender was extended upto 13th November 2006 i.e. till yesterday. Mr.Sabrad states that the applicant would pay during the course of

today a sum of Rs.25,000/- in cash to complainant. Complainant's Counsel is present in court and he states that the complainant would accept the said amount and issue necessary receipt.

5. Mr.Sabrad seeks further extension of time to surrender and states that the balance sum of Rs.75,000/- would be paid by 28th February 2007 in three equal instalments of Rs.25,000/- each on or before 15th of each month. He submits that upon such further undertaking, time to surrender be extended. Original complainant's Counsel leaves the matter to Court.

6. Therefore, the orders passed on 10th August 2006 and continued on 16th October 2006 is modified in the light of these subsequent developments. Since, the complainant has received a sum of Rs.25,000/- and balance sum is only Rs.75,000/- I am of the opinion that in the

peculiar facts of this case, application can be disposed of by extending time to surrender till 28th February 2007. Applicant to pay by this period a sum of Rs.75,000/- in three equal instalments of Rs.25,000/- each on every 15th of each month commencing from 15th December 2006. Needless to state that upon default of payment of Rs.75,000/- falling due on 16th December 2006, this application would stand dismissed and the applicant would have to surrender to the custody for undergoing sentence. Mr.Sabrad states that the applicant is present in court. He has undertaken to pay the aforesaid sum as above. He is full aware of the consequences. Applicant does not have passport. Applicant shall reside at B-29, Mehal Coop.Housing Society, Janakalyan Nagar, Malad (West), Mumbai 400 095. Applicant shall not Mumbai city without prior permission of this Court. Applicant undertakes not to seek further extension.

(S.C.Dharmadhikari, J)